

STATE OF MICHIGAN
IN THE SUPREME COURT
APPEAL FROM THE COURT OF APPEALS
(Murphy, P.J., Cooper and Kelly, J.J.)

MARGARET JENKINS, as Personal Representative
of the ESTATE OF MATTIE HOWARD,
DECEASED,

Supreme Court No. 123957

Court of Appeals No. 233116

Plaintiff-Appellee,

Wayne County Circuit Court
No. 98-808834-NH

v

JAYESH KUMAR PATEL, M.D., and
COMPREHENSIVE HEALTH SERVICES, INC., a
Michigan Corporation, d/b/a THE WELLNESS
PLAN, Jointly and Severally,

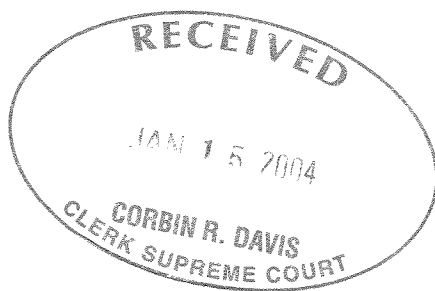
Defendant-Appellants.

**AMICUS BRIEF ON APPEAL – LINDA A. WATTERS, COMMISSIONER
OF THE OFFICE OF INSURANCE AND FINANCIAL SERVICES
AND REHABILITATOR OF THE WELLNESS PLAN**

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Dated: January 15, 2004

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STATEMENT OF JURISDICTION

This Court has jurisdiction pursuant to MCR 7.301(A)(2). This Court granted leave to appeal the Court of Appeals' April 1, 2003 Decision on November 21, 2003.

QUESTION PRESENTED FOR REVIEW

This appeal is limited to the issue raised in the Application for Leave to Appeal. MCR 7.302(G)(4)(a). Amicus Curiae Commissioner takes no position on those issues, but offers this brief to inform the Court of the pending rehabilitation proceeding.

SUPPLEMENTAL STATEMENT OF PROCEEDINGS AND FACTS

A. Procedural History Pertinent to the Case

On May 19, 2000, a Wayne County jury awarded the Plaintiffs \$10,000,000.00 against The Wellness Plan for alleged medical malpractice. The Defendants appealed the verdict.

The Court of Appeals affirmed the verdict on April 1, 2003. The Defendants filed an Application for Leave to Appeal on May 29, 2003. The Court granted the Application for Leave on November 21, 2003.

On July 1, 2003, the Ingham County Circuit Court (Hon. William E. Collette) placed The Wellness Plan ("Wellness") into rehabilitation under MCL 500.8101 *et seq.* Order Placing The Wellness Plan into Rehabilitation, Approving the Appointment of a Special Deputy Rehabilitator, and Providing Injunctive Relief, Ingham County Circuit Court Docket No. 03-1127-CR (July 1, 2003) ("Rehabilitation Order") Attachment 1. A copy of the Order was mailed to Plaintiff-Appellees on July 14, 2003.

On September 11, 2003, the Ingham County Circuit Court ordered that all creditor claims against Wellness had to be delivered to the Deputy Rehabilitator by 5:00 p.m. on October 24, 2003. The Court's Order provided that:

Claims not received by the Rehabilitator by 5:00 p.m., Friday, October 24, 2003 are waived, including objections to the treatment of a claim or the failure to list a claim or provide for the payment of a claim in a Rehabilitation Plan. [Emphasis in original]. [Order for Approval of the Rehabilitation Claims Filing Procedure and Deadline for the Submission of Creditor Claims to the Rehabilitator, Ingham County Circuit Court Docket No. 03-1127-CR (September 11, 2003) ("Order of Claims Procedure"), p. 3, ¶ 7. Attachment 2.]

A copy of the Notice was mailed to the Plaintiff-Appellee's Counsel by letter dated September 22, 2003. In addition, the notice of the claims procedure and the deadline was:

1. Published in the Detroit News and the Detroit Free Press on October 6, 7, 8, 9 and 10, 2003; and

2. Posted on the Office of Financial and Insurance Services' web site.

B. Summary of Orders Entered by the Ingham County Circuit Court

The Ingham County Circuit Court's Order of Rehabilitation vested, by operation of law, legal title to all assets of Wellness in Commissioner Linda A. Watters, Commissioner of the Office of Financial and Insurance Services, as Rehabilitator. (Rehabilitation Order, *supra* at p. 3, ¶ 4) The Ingham County Circuit Court ordered the Rehabilitator to take immediate possession of all assets of OmniCare and administer those assets under the Ingham County Circuit Court's general supervision. Order of Rehabilitation, *supra*, p. 3, ¶ 2 (Attachment 1). The Court's Rehabilitation Order is consistent with MCL 500.8113(1) that, in pertinent part, provides:

(1) An order to rehabilitate the business of a domestic insurer, or an alien insurer domiciled in this state shall appoint the commissioner and his or her successors in office as the rehabilitator, and shall direct the rehabilitator to take immediate possession of the assets of the insurer, and to administer them under the court's [Ingham County Circuit] general supervision

The Court may note that Wellness is required to indemnify its employed physicians. Thus, a judgment against an employed physician would ultimately result in a distribution of the assets of Wellness. To prevent creditors from trying to avoid the rehabilitation proceedings by suing an employee, the Ingham County Circuit Court has ordered:

19. Pursuant to MCL 500.8105(1) and MCL 500.8114(2) and except as provided in 18, 21, 22, and 23 all Creditors of Wellness are enjoined from:

a. Institution or continuing to prosecute any actions or proceedings to determine, enforce, collect, or assert any claims against Wellness, its assets, its members, its enrollees, its subscriber, its officers, its directors, or its employees;

b. Institution or continuing to prosecute any actions or proceedings to determine, enforce, collect, or assert any claims against the Rehabilitator, his agents, or the State of Michigan and its officers, agencies or

departments for claims or actions arising out of or related to claims against Wellness or proceedings under MCL 500.8101 *et seq*;

c. Obtaining preferences, judgments, attachments, garnishments, or liens against Wellness, its assets, its subscribers or members, its officers, its directors, or its employees;

d. Levying of execution against Wellness, its assets, its subscribers, enrollees or members, its officers, its directors, or its employees;

e. Taking any other action that may lessen the value of Wellness' assets or prejudice the rights of Wellness' creditors as a whole, its subscribers, enrollees or members or the administration of this rehabilitation proceeding.

* * *

21. All creditor claims against Wellness are within the exclusive jurisdiction of this Court and will be determined, resolved, paid, and/or discharged, in whole or in part, according to the terms and conditions approved by the Court.

22. Any and all claims by Creditors against Wellness must be raised or asserted within the rehabilitation proceedings before this Court and are subject to this Court's orders regarding the submission and determination of claims.

23. The Rehabilitator shall develop a method for the submission, evaluation and resolution of all claims for goods and services provided to Wellness and its subscribers or members prior to the date of this Order. [Emphasis added.] [Rehabilitation Order, *supra*, at pp. 7-8, ¶¶ 19, 21-23]

For purposes of the Wellness' Rehabilitation a creditor is defined as:

[A] person having a claim against an insurer, whether matured or unmatured, liquidated or unliquidated, secured or unsecured, absolute, fixed or contingent. [MCL 500.8103(b)]. *See also*, Rehabilitation Order, *supra*, at Finding of the Court, p. 2, ¶ 1.]

On September 11, 2003, the Ingham County Circuit Court entered an Order establishing the claims procedure and a claim deadline. Order of Claims Procedure, *supra*. (Attachment 2). The Court's order was mailed to all known creditors and posted on Office of Financial and Insurance Services web site. In addition, Notice of Claims deadline was published on October 6, 7, 8, 9 and 10 in the Detroit News and the Detroit Free Press.

The Plaintiff-Appellees filed a Proof of Claim in the Ingham County Rehabilitation Proceeding. Their Proof of Claim was received by the Deputy Rehabilitator on Monday, October 27, 2003. The Proof of Claim was three days late.

C. **Impact of the Rehabilitation on the Proceedings Before the Court**

The Rehabilitator and the Ingham County Circuit Court are required to protect the interests of The Wellness Plan's members, creditors, and the public. MCL 500.8101(3). The Rehabilitator and the Ingham County Circuit Court must develop a plan of rehabilitation that is fair and equitable to Wellness members, creditors, and the public. MCL 500.8114(4). Accordingly, the Legislature requires the Ingham County Circuit Court's order to rehabilitate Wellness to:

- 1) vest, by operation of law, legal title to all of Wellness' assets in the Rehabilitator;
- 2) direct the Rehabilitator to take immediate possession of Wellness' assets;
- 3) direct the Rehabilitator to administer Wellness' assets under the Ingham County Circuit Court's general supervision.

MCL 500.8113(1). See Order of Rehabilitation, *supra*, p 3, ¶¶ 2 and 4.

Once placed into rehabilitation, only the Ingham County Circuit Court may order a distribution of Wellness' assets to pay a creditor's claim. MCL 500.8113(1) and MCL 500.8104(2). Accordingly, this Court may determine whether or not MCL 600.1483's limit on non-economic damages applies to the Plaintiff-Appellee's claim, but it may not order the distribution of Wellness' assets to pay the claim or require Dr. Patel to pay the claim.

The Rehabilitator would like the Court to resolve the legal issue of whether or not MCL 600.1483's limit on non-economic damages applies in this case. The Court's decision will assist the Rehabilitator and the Ingham County Circuit Court in evaluating medical malpractice/wrongful death claims in the rehabilitation proceeding and in formulating a

rehabilitation plan that is fair and equitable for all of Wellness' members, creditors, and the public.

CONCLUSION

The Wellness Plan was ordered into rehabilitative receivership on July 1, 2003. Pursuant to MCL 500.8104(2), the Rehabilitator and the Ingham County Circuit Court are required to develop and implement a rehabilitation plan that is fair and equitable to Wellness members, to or related to The Wellness Plan's rehabilitation. Thus, the Legislature has required that any distribution of Wellness' assets to its creditors be done by the Ingham County Circuit Court pursuant to the authority of MCL 500.8101 *et seq.*

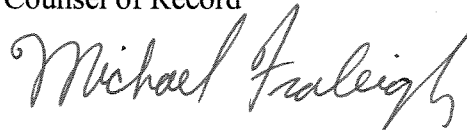
RELIEF SOUGHT

Commissioner Watters as Rehabilitator of The Wellness Plan would like the Court to enter an order allowing the Ingham County Circuit Court to fulfill its statutory mandate to control the distribution of The Wellness Plan's assets as part of the receivership proceedings under MCL 500.8101 *et seq.*

Respectfully submitted,

Michael A. Cox
Attorney General

Thomas L. Casey (P24215)
Solicitor General
Counsel of Record

A handwritten signature in cursive script that reads "Michael Fraleigh".

Michael J. Fraleigh (P36615)
Assistant Attorney General
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Date: January 15, 2004

2003 Cases/Wellness/Pending Litigation/Jenkins/Jenkins Amicus Brief

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL CIRCUIT
INGHAM COUNTY

LINDA A. WATTERS, COMMISSIONER,
OFFICE OF FINANCIAL AND INSURANCE SERVICES
FOR THE STATE OF MICHIGAN,

Petitioner,

v

File No. 03- 1127 -CR

THE WELLNESS PLAN,
a Michigan health maintenance organization

Hon. William E. Collette

Respondent.

_____ /

ORDER
PLACING THE WELLNESS PLAN INTO REHABILITATION,
APPROVING THE APPOINTMENT OF A SPECIAL DEPUTY REHABILITATOR,
AND
PROVIDING INJUNCTIVE RELIEF

At a session of said Court
held in the Circuit Courtrooms
for the County of Ingham
State of Michigan, on the
1st day of July, 2003

PRESENT: HONORABLE William E. Collette
Circuit Judge

Petitioner, Linda A. Watters, Commissioner of the Office of Financial & Insurance Services of the State of Michigan (Commissioner), has filed a Verified Petition seeking an Order of Rehabilitation, Appointment of a Special Deputy Rehabilitator, and Injunctive Relief. The Wellness Plan has consented to being placed into Rehabilitation under MCL 500.8101 *et seq.* under the terms and conditions determined by the Commissioner to be appropriate. The Court is fully advised in the premises and finds:

Attachment
/

1. Based on MCL 500.8103(b), a creditor is a person having a claim against The Wellness Plan (Wellness), whether matured or unmatured, liquidated or unliquidated, secured or unsecured, absolute, fixed, or contingent.

2. Based on MCL 500.8105(1), the Court is authorized to enter an Order it considers to be necessary and proper to prevent:

- a. Interference with the Rehabilitator or with the Rehabilitation proceedings;
- b. The institution or further prosecution of any actions or proceedings against Wellness, its assets, or its members;
- c. The obtaining of preferences, judgments, attachments, garnishments, or liens against Wellness, its assets, or its members;
- d. The levying of execution against Wellness, its assets, or its members;
- e. Any other threatened or contemplated action that might lessen the value of Wellness' assets or prejudice the rights of its members, creditors, or the administration of this rehabilitation proceeding.

3. All creditor claims against Wellness are within the jurisdiction of this Court and will be determined, resolved, paid, and/or discharged, in whole or in part, according to the terms and conditions approved by the Court.

4. MCL 500.8114(2) in conjunction with MCL 500.8121(1)(m) authorizes the Rehabilitator to: "[P]rosecute any action that may exist on behalf of creditors, members, policyholders, or shareholders of the insurer against an officer of the insurer or another person."

5. Wellness has stipulated to the existence of the legal and factual basis for the entry of an Order placing Wellness into rehabilitation.

6. Wellness has stipulated to the entry of an Order placing Wellness into rehabilitation on terms and conditions the Commissioner deems appropriate.

7. Immediate action placing Wellness into rehabilitation is necessary to protect the interest of Wellness' members, creditors, and the public.

THEREFORE, IT IS HEREBY ORDERED that:

1. Pursuant to MCL 500.8112 and MCL 500.8113, the Commissioner's Petition for Order of Rehabilitation is GRANTED, and The Wellness Plan ("Wellness") is placed into Rehabilitation pursuant to MCL 500.8101 *et seq.*

2. The Commissioner is appointed Rehabilitator of Wellness, and is further authorized to appoint one or more Special Deputy Rehabilitator pursuant to MCL 500.8114(1). Hereafter the Commissioner shall be referred to as the Rehabilitator.

3. The Rehabilitator shall take immediate possession of all the assets of Wellness and administer those assets under the Court's general supervision.

4. By operation of law, legal title to all assets, accounts and moneys of Wellness is hereby vested in the Rehabilitator. The filing or recording of this Order with the Clerk of the Circuit Court or the Register of Deeds for the county in which the principal office or place of business of the Respondent is located shall impart the same notice as a deed, bill of sale, or other evidence of title duly filed or recorded with that Register of Deeds would have imparted.

5. The Rehabilitator, shall have all the powers set forth in MCL 500.8114 and 500.8115 without being specifically set forth in this Order, all applicable powers set forth in Chapter 81 of the Michigan Insurance Code of 1956, MCL 500.8101 *et seq.*, and such additional powers as the Court shall grant from time to time upon petition of the Rehabilitator.

6. All powers of the current directors, officers, and managers of Wellness, are hereby suspended in their entirety upon issuance of this Order. The Rehabilitator shall have and exercise the full and complete power of directors, officers, and managers. The Rehabilitator may

redelegate, in writing, some or all of her authority to a director, officer(s) or manager of Wellness.

7. The Rehabilitator shall have full power and authority to direct, manage, hire, and discharge employees subject to any contract rights they have, and to deal in totality with the property and business of Wellness as provided by law.

8. A director, manager, officer, employee or agent of Wellness and any other person shall, at the Rehabilitator's direction, vacate any building, office, or other premise of Wellness.

9. The Rehabilitator may take such action as she considers necessary or appropriate to reform or revitalize the Wellness, and is empowered to pursue all avenues of reorganization, consolidation, conversion, merger, or other transformation of Wellness to effectuate rehabilitation and maintain, to the greatest extent possible, a continuity of health care services.

10. If the Rehabilitator determines that reorganization, consolidation, conversion, reinsurance, merger or other transformation of Wellness is appropriate, she shall prepare a plan to effect those changes. The plan shall be submitted to the Court for approval.

11. The Rehabilitator shall take all steps necessary to preserve the existing provider network and to maintain uninterrupted health care services. The Rehabilitator shall take all necessary steps to provide payment on a going forward basis to all health care providers for goods or services rendered subsequent to the date of this Order pursuant to all existing provider relationships and agreements, WHICH RELATIONSHIPS AND AGREEMENTS, OR AMENDED AGREEMENTS, REMAIN IN FULL FORCE AND EFFECT pursuant to MCL 500.8105(1)(k), until further order of this Court.

The Rehabilitator shall, by December 31, 2003, and every six (6) months thereafter, review the necessity for the continuation of the provisions of this paragraph of the Order and

make a recommendation to the Court regarding the continued need for the injunctive relief it provides.

12. The Rehabilitator shall not pay any Creditor claims for goods or services provided prior to the date of this Order, until further order of this Court.

13. The Rehabilitator shall pay Creditor claims for goods or services provided on or after the date of this Order as they become due in the ordinary course of business.

14. Entry of this Order shall not constitute an anticipatory breach of any contracts or relationship between Wellness and other persons. MCL 500.8113(3). All persons, including medical service providers, doing business with Wellness on the date of this Order are hereby enjoined and restrained from terminating or attempting to terminate such relationship or contract on the basis of the entry of this Order or Wellness' financial condition during the pendency of the rehabilitation. MCL 500.8105(1)(k).

15. All employees, officers, directors or agents of Wellness, or any other persons with authority over or in charge of any segment of the affairs of Wellness, shall cooperate fully with the Rehabilitator and the Deputy Rehabilitator. MCL 500.8106. Among other things, full cooperation requires:

(a) Prompt replies to any inquiry by the Rehabilitator including a written reply when requested.

(b) Providing the Rehabilitator with immediate, full and complete possession, control, access to and use of all books, accounts, documents, and other records, information or property of or pertaining to Wellness in the possession, custody, or control of any person or entity as may be necessary so as to enable the Rehabilitator and Deputy Rehabilitator to operate the business and to maintain the continuity of health care services being provided to all subscribers.

(c) Providing the Rehabilitator with full and complete access and control of all assets, documents, data, computer systems, security systems, buildings, leaseholds, and property of or pertaining to Wellness.

(d) Providing the Rehabilitator with full and complete access to all legal opinions, memorandum, letters, documents, information, correspondences, or legal advice, attorney/client provided materials and attorney work product materials to or from Wellness' in-house or outside counsel to Wellness or any of its officers, directors, employers or agents related to Wellness or in connection to the operation of Wellness or its business.

(e) No obstruction or interference with the Rehabilitator or Deputy Rehabilitator in the conduct of a receivership proceeding pursuant to MCL 500.8101 *et seq.*

16. As provided by law, failure to cooperate may result in any sentence requiring the payment of a fine not exceeding \$10,000.00, imprisonment for a term of not more than one year, or both, as provided by MCL 500.8106(4).

17. Any person with possession, custody or control of assets, documents, data, accounts, moneys, books, records, information, or property of or pertaining to Wellness shall immediately:

- a. Provide the Rehabilitator with notice of the persons possession, custody or control and a description of the assets, documents, data, accounts, books, records, information, or property in the person's possession, custody or control.
- b. Tender possession, custody, and control to the Rehabilitator.
- c. Take all necessary steps to safeguard, preserve and retain the assets, documents, data, books, records, accounts, moneys, information or records.

18. Pursuant to MCL 500 8105(1)(g)(k) and MCL 500.3529(3), all non-contracted and contracted medical care providers are hereby enjoined and restrained from obtaining any

judgments and/or balance billing of Wellness' subscribers, enrollees or members for medical goods provided or services rendered prior to the date of this Order. This prohibition does not apply to any applicable co-payments, deductibles or fees for medical goods or services that are not covered by Wellness.

19. Pursuant to MCL 500.8105(1) and MCL 500.8114(2) and except as provided in ¶¶ 18, 21, 22, and 23 all Creditors of Wellness are enjoined from:

- a. Institution or continuing to prosecute any actions or proceedings to determine, enforce, collect, or assert any claims against Wellness, its assets, its members, its enrollees, its subscriber, its officers, its directors, or its employees;
- b. Institution or continuing to prosecute any actions or proceedings to determine, enforce, collect, or assert any claims against the Rehabilitator, his agents, or the State of Michigan and its officers, agencies or departments for claims or actions arising out of or related to claims against Wellness or proceedings under MCL 500.8101 *et seq*;
- c. Obtaining preferences, judgments, attachments, garnishments, or liens against Wellness, its assets, its subscribers or members, its officers, its directors, or its employees;
- d. Levying of execution against Wellness, its assets, its subscribers, enrollees or members, its officers, its directors, or its employees;
- e. Taking any other action that may lessen the value of Wellness' assets or prejudice the rights of Wellness' creditors as a whole, its subscribers, enrollees or members or the administration of this rehabilitation proceeding.

20. Any person who violates an injunction issued in this matter shall be liable to the Rehabilitator or member or subscriber for the reasonable costs and attorney fees incurred in

enforcing the injunction or any court orders related thereto and any reasonably foreseeable damages.

21. All creditor claims against Wellness are within the exclusive jurisdiction of this Court and will be determined, resolved, paid, and/or discharged, in whole or in part, according to the terms and conditions approved by the Court.

22. Any and all claims by Creditors against Wellness must be raised or asserted within the rehabilitation proceedings before this Court and are subject to this Court's orders regarding the submission and determination of claims.

23. The Rehabilitator shall develop a method for the submission, evaluation and resolution of all claims for goods and services provided to Wellness and its subscribers or members prior to the date of this Order.

24. All employer groups and other entities currently contracted with Wellness for health care services for its employees, members, enrollees or recipients, are hereby enjoined and restrained from terminating or attempting to terminate such relationship prior to the contract's expiration date or any automatic renewal or extension of the contract. MCL 500.8105(1)(k) and MCL 500.8113(3)..

25. The Rehabilitator's appointment of Eoshealth Regulatory Services, LLC as Deputy Rehabilitator is approved. Eoshealth shall have such authority and responsibilities as may be delegated to it by the Rehabilitator. The proposed fees for Eoshealth's services are approved. Eoshealth's fees and expenses shall be paid pursuant to its contract with the Rehabilitator and MCL 500.8114(1).

26. The Rehabilitator shall make an accounting to the Court of Wellness' financial condition and progress to towards rehabilitation on or before December 31, 2003, and each succeeding six-month period thereafter.

27. The Court reserves jurisdiction to amend this Order of Rehabilitation or issue such further orders as it deems just, necessary and appropriate.

WILLIAM E. COLLETTE

Circuit Judge

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL CIRCUIT
INGHAM COUNTY

LINDA A. WATTERS, COMMISSIONER,
OFFICE OF FINANCIAL AND INSURANCE SERVICES
FOR THE STATE OF MICHIGAN,

Petitioner,

v

File No. 03-1127-CR ✓

THE WELLNESS PLAN,
a Michigan health maintenance organization

Hon. William E. Collette

Respondent.

ORDER FOR APPROVAL OF THE
REHABILITATION CLAIMS FILING PROCEDURE
AND
DEADLINE FOR THE SUBMISSION OF
CREDITOR CLAIMS TO THE REHABILITATOR

At a session of said court
held in the Circuit Courtrooms
for the County of Ingham, State of Michigan
on the 11 day of September 2003.

PRESENT: HONORABLE WILLIAM E. COLLETTE
CIRCUIT JUDGE

FILED
CLERK OF THE 30TH
JUDICIAL CIRCUIT COURT
INGHAM COUNTY, MICHIGAN

2003 SEP 11 PM 2:43

FILED

Whereas, the Rehabilitator has filed a Petition for Approval of the Claims Filing
Procedures,

The Court finds:

1. Based on MCL 500.803(b), a creditor is a person having a claim against The
Wellness Plan (Wellness), whether matured or unmatured, liquidated or unliquidated, secured or
unsecured, absolute, fixed, or contingent.

Attachment

2

A

2. Based on MCL 500.8105(1), the Court is authorized to enter an Order it considers to be necessary and proper to prevent:

- a. Interference with the Rehabilitator or with the Rehabilitation proceedings;
- b. The institution or further prosecution of any actions or proceedings against Wellness, its assets, or its members;
- c. The obtaining of preferences, judgments, attachments, garnishments, or liens against Wellness, its assets or its members;
- d. The levying of execution against Wellness, its assets, or its members;
- e. Any other threatened or contemplated action that might lessen the value of Wellness' assets or prejudice the rights of its members, creditors, or the administration of this rehabilitation proceeding.

3. All creditor claims against Wellness are within the jurisdiction of this Court and will be determined, resolved, paid, and/or discharged, in whole or in part, according to the terms and conditions of an approved Rehabilitation Plan.

4. Creditor claims for goods or services provided on or after July 1, 2003 are being paid pursuant to the Court's July 1, 2003 Rehabilitation Order.

5. There is a need to set a procedure for the orderly submission and verification Creditor claims based on goods or services provided prior to July 1, 2003.

Therefore, IT IS HEREBY ORDERED that:

1. Wellness shall serve on each known creditor a copy of this Order and a copy of the Claim Form that is Attachment 1 to this Order.

2. Any documents and notices required to be served on Creditors by this Order may, at the Rehabilitator's discretion, be provided in electronic format by mailing a compact disk (CD) or computer disk containing the documents and notices to Creditors.

3. A copy of this Order and the claims form shall be maintained on the Office of Financial and Insurance Services' website: www.michigan.gov/ofis/.

4. Wellness shall publish the Notice attached hereto as Attachment 2 on five (5) consecutive days, at least ten (10) days prior to the claims filing deadline, in a newspaper general circulation in Michigan.

5. For purposes of this Order:

- a. A Claim is defined as a liability of The Wellness Plan, its officers, or employees that is matured or unmatured, liquidated or unliquidated, secured or unsecured, absolute, fixed or contingent that arises out of the operation of The Wellness Plan or an officer or employee's duties while employed by The Wellness Plan.
- b. A Creditor shall be defined as set forth in MCL 500.8103(b).
- c. A Pre-rehabilitation Claim means a claim that arose prior to July 1, 2003.

6. On or before 5:00 p.m., Friday, October 24, 2003 each Creditor shall in writing deliver to the Rehabilitator a completed rehabilitation claim form as required by paragraph 8 of this Order.

7. **Claims not received by the Rehabilitator by 5:00 p.m., Friday, October 24, 2003 are waived, including objections to the treatment of a claim or the failure to list or provide for the payment of a claim in a Rehabilitation Plan.**

8. All Creditors shall use a copy of the claims form attached as Attachment 1 to this Order. Claim verification process:

a. Medical Providers:

- 1. Medical Providers who are creditors of The Wellness Plan shall use The Wellness Plan's Internet-based program, Net Manager, to check the status and dollar amount of their claims based on goods or services provided to The Wellness Plan members prior to July 1,

2003 and to identify any claims in their records that are not listed on Net Manager. To obtain a user name and password, contact The Wellness Plan at (800) 875-WELL (800-875-9355).

2. The claim form filed by the Medical Provider shall record the total amount the Provider believes it is owed for Pre-rehabilitation Claims. This amount reported should include the amount owed for claims listed on Net Manager and those that were not listed.
3. The Provider shall provide supporting documentation only for claims not listed on Net Manager and for claims that the Provider would like to amend or supplement.
4. Providers shall not submit claims with dates of service more than one (1) year prior to June 30, 2003, and shall not submit modifications or amendments to claims more than six (6) months after the date of service.
5. Providers shall not submit claims details for claims covered by a settlement agreement with The Wellness Plan. The settlement agreement must be identified on the claim form.
6. The Rehabilitator may request and the Provider shall provide such additional information, data and documentation including affidavits and testimony under oath, necessary to verify the Provider's claims.

7. Claims and, when required, supporting documents shall be delivered to the Deputy Rehabilitator at:

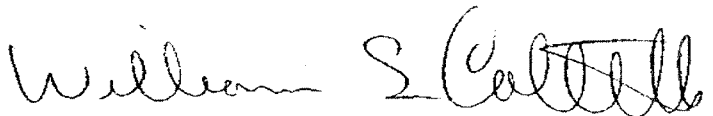
The Wellness Plan
P.O. Box 02577
Detroit, MI 48202

ATTN: Rehabilitation Claims

b. All other Creditors:

1. Each creditor shall submit a claim form to the Rehabilitator.
2. The Rehabilitator may request and the Creditor shall provide such additional information, data, and documentation including affidavits and testimony under oath, necessary to verify the Creditor's claim.
3. Claims and, when required, supporting documents shall be delivered to the Deputy Rehabilitator at:

The Wellness Plan
2875 W. Grand Blvd.
Detroit, MI 48202
ATTN: Donn Merrill/AP Claims



HON. WILLIAM E. COLLETTE
CIRCUIT JUDGE

PROOF OF CLAIM

REHABILITATION OF THE WELLNESS PLAN

CASE NO: 03-1127-CR

CIRCUIT COURT OF INGHAM COUNTY, STATE OF MICHIGAN

DEADLINE TO DELIVER A PROOF OF CLAIM IS: 5:00 PM OCTOBER 24, 2003

See September ___, 2003 Court Order for additional instructions on filing your Claim.

CLAIMANT INFORMATION

Name Claimant: _____

Name and Address where
notices should be
sent: _____

Social Security Number: _____ Federal Tax ID Number _____

Provider ID Number: _____

Name and Address of Claimant Attorney (if any): _____

CLAIM INFORMATION

Basis for Claim: ___ Goods Sold; ___ Services Performed; ___ Money Loaned;

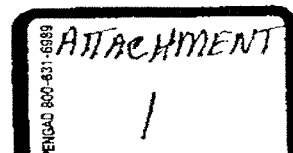
___ Personal Injury / Wrongful death; ___ Taxes; ___

Wages / Salary / Commissions / Compensation; ___ Settlement;

___ Medical Bills Paid by Member / Insured; ___ Other: _____

Claim description: (briefly state the date and facts of this claim or identify case name, court and docket number of prior litigation):

Total Amount of Claim on July 1, 2003: \$ _____ The amount of all payments on this claim
has been deducted for purposes of making this proof of claim: ___ Yes ___ No



Does claim include interest or other charges: ____ Yes ____ No If Claim includes interest or other charges **attach an itemized statement** of all interest and additional charges.

Is your Claim secured by collateral (including a right to setoff): ____ Yes ____ No

Value of collateral: \$ _____

Brief Description of collateral:

By signing this Proof of Claim, Claimant certifies that the information and supporting documents are true and accurate. Claimant acknowledges that the Rehabilitator may request additional or supplemental information or evidence and may require testimony under oath, affidavits or written statements to support this Claim.

Signed this ____ day of _____, 2003.

Claimant's Signature: _____

Type or print
Claimant Name: _____

Title: _____

After completion, return this signed Proof of Claim to:

Claims by Medical Providers:

The Wellness Plan
P.O. Box 02577
Detroit, MI 48202
ATTN: Rehabilitation Claims

All other Creditor claims:

The Wellness Plan
2875 W. Grand Blvd.
Detroit, MI 48202
ATTN: Donn Merrill/AP Claims

**NOTICE TO ALL CREDITORS OF
THE WELLNESS PLAN CLAIMS DEADLINE**

On July 1, 2003, the Ingham County Circuit Court placed The Wellness Plan into rehabilitation under MCL 500.8101 *et seq.* The Court has ordered that all Creditors must deliver a Proof of Claim to the Deputy Rehabilitator **no later than 5:00 p.m., Friday, October 24, 2003.**

Claims not received by the Rehabilitator by 5:00 p.m., Friday, October 24, 2003, are waived including the objections to the treatment of the claim or the failure to list or provide for the payment of a claim in a rehabilitation plan.

All creditor claims against The Wellness Plan are within the jurisdiction of the Ingham County Circuit Court and will be determined, resolved, paid and/or discharged, in whole or in part, according to the terms and conditions of an approved Rehabilitation Plan. Claims and supporting documents shall be delivered to the Deputy Rehabilitator, Eoshealth Regulatory Services at the address listed on the claim for and in the Court's Order.

Claims must be submitted according to the instructions set forth in the Court's September 11, 2003 Order For Approval of the Rehabilitation Claims Filing Procedure and Deadline for Submission of Creditor Claims to the Rehabilitator and the Proof of Claim Form.

Claims Forms, Court Orders and additional information can be obtained from:

Office of Financial and Insurance Services
Telephone: (877) 999-6442
Website: www.michigan.gov/ofis/

The Wellness Plan
Telephone: (800) 975-9355
Website: www.wellplan.com

Court orders, notices and pleadings related to this matter are posted on the OFIS website.

